

26264. Misbranding and alleged adulteration of beer and ale. U. S. v. 709 Cases of Red Top Beer and 39 Cases of Red Top 8 Ale. Decrees of condemnation. Products released under bond to be relabeled. (F. & D. nos. 37799, 37802. Sample nos. 68538-B, 68539-B.)

These cases involved shipments of beer and ale that contained smaller percentages of alcohol than indicated on the labels.

On April 9, 1936, the United States attorney for the Middle District of Tennessee, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 709 cases of Red Top Beer and 39 cases of Red Top 8 Ale at Nashville, Tenn., alleging that the articles had been shipped in interstate commerce, on or about March 13, and April 4, 1936, by the Red Top Brewing Co., from Cincinnati, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: (Beer) "Red Top Beer, Not over 14% proof spirits, extra high"; (ale) "8", (neck label) "This is our strong ale."

The articles were alleged to be adulterated in that beverages containing less alcohol than indicated on the labeling had been substituted for the said articles.

The beer was alleged to be misbranded in that the statement "Extra High, not over 14% proof spirits", borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product that contained less than 4 percent of alcohol by weight.

The ale was alleged to be misbranded in that the statements "8" and "This is our strong ale", borne on the label, were false and misleading and tended to deceive and mislead the purchaser when applied to a product that contained less than 5 percent of alcohol by weight.

On April 16, 1936, M. Cohen & Sons, Nashville, Tenn., claimants, having admitted the allegations of the libels and having consented to the entry of decrees, judgments were entered finding the products misbranded and ordering that they be condemned. The decrees provided that the products be released under bond conditioned that they be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26265. Adulteration and misbranding of beer. U. S. v. 88 Cases of Beer. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. no. 37800. Sample no. 68540-B.)

This case involved an interstate shipment of beer that was found to contain less alcohol than the percentage thereof represented on the label.

On April 9, 1936, the United States attorney for the Middle District of Tennessee, acting upon a report by an official of the State of Tennessee, filed in the district court a libel praying seizure and condemnation of 88 cases of beer at Nashville, Tenn., alleging that the article had been shipped in interstate commerce on or about March 7, 1936, by Sterling Brewers, Inc., from Evansville, Ind., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Sterling Beer Not Over 12½% Proof Spirits—Sterling High Quality."

The article was alleged to be adulterated in that a beverage containing less than 12½ percent of alcohol had been substituted for the article described on the label.

The article was alleged to be misbranded in that it was labeled so as to deceive and mislead the purchaser because of the statement on the label, "Not Over 12½% Proof Spirits—Sterling High Quality", when analysis showed that the article contained less than 5 percent of alcohol by weight.

On May 1, 1936, Sterling Brewers, Inc., claimant, having admitted the allegations of the libels and having consented to a decree, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

26266. Adulteration of apples. U. S. v. 40 Boxes of Apples. Default decree of destruction. (F. & D. no. 37803. Sample no. 13926-B.)

This case involved a shipment of apples that were contaminated with arsenic and lead.

On March 28, 1936, the United States attorney for the District of North Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 boxes of apples at Bismarck, N. Dak., consigned by O. K. Lindville, Ephrata, Wash., alleging that the article had been shipped in interstate commerce on or about March 3, 1936,